

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 28, 2003. Claims 1, 14, 124 and 125 have been amended. Applicants respectfully request reconsideration of the above-referenced application in light of the amendments and following remarks.

Claims 1 and 14 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by Okutoh et al. (U.S. Patent No. 6,201,271) ("Okutoh I"). The rejection is respectfully traversed.

Okutoh I fails to anticipate the present invention. Okutoh I does not teach "an electrode having at least one layer comprising of platinum-rhodium material and at least one non-oxide layer comprising platinum material formed on top and in contact with the platinum-rhodium layer," as claim 1 recites (emphasis added), nor "a lower electrode comprising at least two layers, said first layer comprising of platinum-rhodium material and a second non-oxide layer comprising platinum material in direct contact with the platinum-rhodium layer," as claim 14 recites (emphasis added).

Okutoh I teaches an alloy oxide film 21 formed as a diffusion barrier (Col. 8, lines 30-35 and FIG. 8). The alloy oxide film 21 consists of platinum, rhodium, and oxygen in a ratio of 70:15:15 (Col. 6, lines 36-39). In contrast, Applicants claim an electrode with a "non-oxide layer comprising platinum material," as recited in claims 1 and 14 (emphasis added). Further, Okutoh I teaches that the platinum film 22 is formed on top and in contact with the alloy oxide film 21 (Col. 8, lines 30-35 and FIG. 8). Okutoh I does not teach a "non-oxide layer comprising platinum material formed on top and in contact with the platinum-rhodium layer," as recited in claim 1 (emphasis added), or a "non-oxide layer comprising platinum material in direct contact with the platinum-rhodium layer," as recited in claim 14 (emphasis added). Accordingly, the rejection of claims 1 and 14 based on Okutoh I should be withdrawn.

Claims 124-125 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Okutoh I in view of Okutoh et al. (U.S. Patent No. 6,180,974) (“Okutoh II”). The rejection is respectfully traversed.

For similar reasons provided above, Okutoh I does not teach or suggest “at least one non-oxide layer comprising a platinum material directly in contact with the platinum-rhodium layer,” as recited in claim 124 (emphasis added), or “at least one non-oxide layer comprising a platinum material in direct contact with the platinum-rhodium layer,” as recited in claim 125 (emphasis added). Okutoh II is relied upon for teaching a platinum-rhodium layer with more than 20% rhodium or less than 10% rhodium, and adds nothing to rectify the deficiencies of Okutoh I.

Okutoh II recites that “the ratio between the elements of the PtRh film 208 is Pt:Rh=80:20.” (Col. 26, lines 29-30) (emphasis added). Okutoh II also recites that the “ratio between the elements of the PtRh film thus formed is 90:10.” (Col. 10, lines 5-6). (emphasis added). Okutoh II does not teach or suggest that the “layer comprising platinum-rhodium material comprises approximately more than 20 percent rhodium,” as recited in claim 124 (emphasis added) and a “layer comprising platinum-rhodium material comprises approximately less than 10 percent rhodium,” as recited in claim 125 (emphasis added). In other words, Okutoh II gives a specific composition and does not teach or suggest anywhere to deviate from them. Accordingly, the rejection of claims 1, 14 and 124-125 based on Okutoh II should be withdrawn.

Claims 1-54 and 124-125 stand rejected under the judicially created doctrine of obviousness type double-patenting as being unpatentable over claims 1-54 of Agarwal. The rejection is respectfully traversed. A Terminal Disclaimer with respect to U.S. Patent No. 6,297,527 is being concurrently filed with this Amendment. Accordingly, the obviousness type double patenting rejection with respect to claims 1-54 and 124-125 should be withdrawn.

Application No.: 09/930,960

Docket No.: M4065.0151/P151-A

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Dated: February 25, 2004

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicants